

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

GARJON COLLINS,

Plaintiff,

v.

CIVIL ACTION NO. 5:15-cv-05576

DAVID E. LEMASTER
and J. COAKLEY,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter is before the Court pursuant to: the Plaintiff's *Combined Motion for Temporary Restraining Order and Preliminary Injunction* (Document 2), filed on May 4, 2015; the Defendants' *Motion to Dismiss, or in the Alternative, Motion for Summary Judgment* (Document 15), filed on July 20, 2015; and the Defendants' *Motion to Dismiss Amended Complaint, or in the Alternative, Motion for Summary Judgment* (Document 22), filed on August 13, 2015.

By Orders of May 5, 2015, and January 6, 2016 (Documents 3 & 34), this action was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On January 25, 2016, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 37) wherein it is recommended that: the Defendants' *Motion to Dismiss Amended Complaint, or in the Alternative, Motion for Summary Judgment* (Document 22) be granted; the Plaintiff's *Combined Motion for Temporary Restraining Order and Preliminary Injunction* (Document 2) be denied; the Defendants'

Motion to Dismiss, or in the Alternative, Motion for Summary Judgment (Document 15) be denied as moot; the Plaintiff's Complaint (Document 2) be dismissed; and that this matter be removed from the Court's docket.

Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by February 11, 2016, and none were timely filed by either party. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that: the *Defendants Motion to Dismiss Amended Complaint, or in the Alternative, Motion for Summary Judgment* (Document 22) be **GRANTED**; the Plaintiff's *Combined Motion for Temporary Restraining Order and Preliminary Injunction* (Document 2) be **DENIED**; the *Defendants' Motion to Dismiss, or in the Alternative, Motion for Summary Judgment* (Document 15) be **DENIED AS MOOT**; the Plaintiff's Complaint (Document 2) be **DISMISSED**; and that this matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Aboulhosn, counsel of record, and any unrepresented party.

ENTER: February 18, 2016


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA